

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-724

February 22, 1999

PUBLIC UTILITIES COMMISSION
Lifeline and Link Up Service Programs
(Chapter 294)

ORDER ADOPTING RULE

WELCH, Chairman; NUGENT & DIAMOND, Commissioners

I. SUMMARY

In this Order, we adopt a rule establishing criteria for Maine's Lifeline and Link Up service programs. These programs facilitate network access for low-income customers by providing discounts on telephone installation and monthly service.

II. BACKGROUND

Since 1984, it has been state policy "that telephone service must continue to be universally available, especially to the poor, at affordable rates." 35-A M.R.S.A. § 7101(1). Maine has relied on Lifeline and Link Up to implement this policy. These programs, which are primarily federally funded, ensure that low-income consumers have access to telecommunications services.

Pursuant to a recently enacted amendment to 35-A M.R.S.A. § 7104, the Commission opened a Rulemaking to describe eligibility and procedures for the Lifeline and Link Up service programs.¹ 35-A M.R.S.A. § 7104(1) states:

The Commission shall require telephone utilities to participate in statewide outreach programs designed to increase the number of low-income telephone customers on the network through increased participation in any universal service program approved by the Commission.

35-A M.R.S.A. § 7104(3) further requires the Commission to adopt rules to implement these requirements. The statute lists certain requirements for any rules adopted by the Commission, including that they be consistent with federal law and maximize available federal assistance. 35-A M.R.S.A. § 7104(3)(A-F).

This Rule is a routine technical rule as defined in Title 5, chapter 375, subchapter II-A.

¹Lifeline and Link Up are presently implemented under a delegation order and individual tariff filings rather than a Commission rule.

Prior to commencing this Rulemaking, the Commission conducted an Inquiry into universal service issues (Inquiry Into Implementing the Universal Service Provisions of the Telecommunications Act of 1996, Docket No. 97-429) in which the Commission solicited and received general comments on the Lifeline and Link Up programs. In addition, the Commission specifically investigated whether it should modify the Lifeline and Link Up programs (Investigation Into Modification of Maine's Lifeline/Linkup Program, Docket No. 97-825). Based on the information received in these proceedings, the Commission issued a proposed Rule on September 25, 1998.

We received comments on the proposed Rule from the Maine Community Action Association (MCAA), Bell Atlantic-Maine (BA-ME) and the Telephone Association of Maine (TAM).

III. DESCRIPTION OF RULE'S PROVISIONS

This Rule primarily addresses criteria for eligibility and enrollment for the Lifeline and Link Up services. Other facets of these programs, such as funding, reimbursement and customer protections, will be addressed in separate proceedings.

A. Section 1: Definitions

This section contains definitions of terms used in the Rule. We received no substantive comments on this section.

B. Section 2: Eligibility

Section 2 outlines the eligibility criteria for Lifeline and Link Up service. The parameters are very similar to those adopted in Policy Statement and Delegation of Authority to Approve Modification to Lifeline Schedules for Telephone Utilities, Docket No. 91-280 Order (October 28, 1991) which are used for Maine's existing Lifeline and Link Up programs. These eligibility criteria allow Maine's social service agencies to identify eligible candidates and provide access to the Lifeline and Link Up service programs. These criteria also allow providers of telecommunications services to employ the social service agencies for verification.

The proposed Rule included the current eligibility criteria. However, in the years that have passed since Docket No. 91-280, the financial assistance programs delineating Lifeline and Link Up eligibility have evolved. In light of these changes, it seemed prudent to reconsider whether the current eligibility guidelines are the most equitable and effective way to ensure that low-income families have access to

telecommunications services. Our goal is to make these benefits available to all individuals who fit certain income criteria based upon family size, regardless of other personal circumstances. Thus, we sought comment on the following questions:

1. *Should we broaden or constrict the suggested set of programs that define eligibility? If so, what programs should be included or removed from the proposed list? Please provide an estimate of the number of households impacted by your recommendation.*

MCAA believes that the current set of programs leaves gaps where people of similar incomes may be excluded due to circumstances unrelated to income. To remedy these gaps, MCAA recommends the addition of WIC (Women, Infants and Children), all subsidized housing recipients not on HEAP (Home Energy Assistance Program), Section 8 rental assistance and Cub Care.

TAM suggests no changes and believes the current programs provide acceptable eligibility guidelines.

BA-ME states that absent evidence that the current programs do not identify the full universe of citizens eligible for assistance, it supports the retention of the current programs to best define eligibility.

Given Maine's telephone penetration rate of 97.7%, as reported in the Federal Communications Commission's (FCC's) most recent survey on universal service, it appears that the current scope of programs captures a large portion of those customers who need financial assistance to gain or maintain access to the network. There remain some customers whose income matches those customers enrolled in certain programs that currently denote eligibility, but who are either ineligible or do not subscribe to those programs for reasons unrelated to income.

We concur with BA-ME's comments on the issue of identifying the full universe of citizens eligible for assistance. In fact, broad, income-based eligibility parameters are a federal requirement for Lifeline programs. However, as we have opted to maintain a verification system for our Lifeline program, it is also important that participation in any program denoting eligibility be readily verifiable. For instance, we decline to add recipients of subsidized housing or section 8 housing to the eligibility list even though these recipients appear to meet the income-based guidelines, because participation in these programs is difficult to verify at this time.²

²It is worth noting that we believe a large majority of

We are not adding the Cub Care or WIC programs at this time because the income eligibility guidelines for these programs are broader than those of the programs currently used to determine eligibility.

Thus, as verification remains an important consideration, we will not add any programs at this time, but may do so if we become aware of additional programs that are both within the income guidelines of existing programs and easily verifiable.

2. Are there any changes planned for the social programs outlined in the draft Rule that would affect the number of eligible households in Maine?

MCAA and BA-ME recommend the removal of the discontinued Maine Health Program. TAM deferred to MCAA on this issue.

We concur with the commenters and remove the Maine Health Program from the eligibility list.

C. Section 3: Enrollment

Section 3 describes how consumers enroll in either the Lifeline or Link Up service programs. The proposed Rule reflected the current scheme, whereby an individual may either apply directly to his or her telecommunications carrier orally or in writing, or may sign up through a contact with a social service agency. The ability of customers to assert their eligibility orally appears to be one of the strengths of Maine's Lifeline program.

We sought comment on the following questions:

3. Could the Department of Human Services accept applications at the same time as it enrolls people for relevant social programs?

MCAA and BA-ME support this concept. TAM defers to the judgment of DHS. We believe this strategy should be pursued in a cooperative fashion as a component of a successful outreach program. However, we do not change any provisions of the Rule and instead encourage the relevant parties to collaboratively pursue this outcome.

households receiving benefits through these programs are likely captured through one of our other existing eligibility criteria, so inclusion of these programs is not critical to the success of Lifeline and Link Up in Maine.

4. *Should everyone at the time of enrollment in any one of the designated social programs automatically be enrolled in Lifeline?*

MCAA and TAM support automatic enrollment, but with an opt out provision included. BA-ME also supports the idea, but stated that additional detail was needed before BA-ME would support the inclusion of automatic enrollment in the Rule.

We conclude that automatic enrollment with an opt out provision is an improvement to the current system in that it would assure that all participants in eligible programs are given an equal opportunity to enroll in the Lifeline and Link Up programs. We will not designate any formal process in the Rule for automatic enrollment, but request that LECs convene a meeting with the appropriate social service agencies with the goal of creating a structure that facilitates automatic enrollment.

D. Section 4: Discounts

Section 4 explains the discounts that will be applied under both the Lifeline and Link Up programs. Customers currently realize a \$10.50 benefit each month for Lifeline service, including \$7.00 from federally regulated sources. Maine's ratepayers currently fund the remaining \$3.50. Maine's contribution allows for the maximum leverage of federal support, thus fulfilling our statutory obligation to maximize federal support.

Link Up provides a customer credit for all but \$10.00 of the cost of installing service. This support is key to maintaining universal service; the rates for initial installation can be prohibitive for some low-income customers. Federal support covers half of the installation costs, or \$30.00, whichever is less. Maine currently supports all but \$10.00 of the remaining amount. The proposed Rule contained these support amounts.

We sought comment on the following question:

5. *Should we modify Maine's Link Up program to provide a fixed amount of intrastate funded support, or is the current system more effective?*

Under the current system, the federal government provides support for installation of telephone service at one-half of the cost, to a maximum of \$30, with the customer paying the next \$10 and Maine paying the balance. The minimum payment from the customer is \$10. For example, if installation

costs \$45, the Federal government will pay \$22.50, the customer will pay the next \$10 and Maine will pay \$12.50. However, if the cost for installing telephone service is \$20, the Federal government will pay \$10, the customer will pay \$10, and Maine will pay nothing.

MCAA supports the current flat system of support for Link Up service. MCAA further questions whether widely differing costs of basic service exist in Maine and whether we should consider a flat Lifeline rate that does not vary throughout the state. MCAA also asks that we consider the special needs of rural customers who live in areas where necessary services may be a toll call away.

TAM, as does BA-ME, recommends that we keep the current system for the sake of simplicity and equity. BA-ME seeks a shift of funding from the Eligible Telecommunications Carrier (ETC) to a competitively neutral universal service fund.

We conclude that the current Link Up system is both equitable and easy for customers to understand and we will continue the current system as described in the proposed Rule. Maine's high level of telephone subscribership is evidence of the success of the \$10 Link Up rate. MCAA's comments regarding a flat Lifeline rate and BA-ME's comments regarding the funding of the program through a universal service fund are well taken and may be considered in a future rulemaking dealing with the creation of the Telecommunications Access Fund as described in our October 27, 1998 Notice of Investigation in Docket No. 98-807, Investigation Into Implementing the Universal Service Provisions of the Telecommunications Act of 1996.

6. Should we modify the Rule to ensure that certain non-ETCs, specifically resellers, are able to offer Lifeline and Link Up service? If so, should we include provisions to ensure that service is provided at rates no greater than those offered by the ETC whose service is being resold?

MCAA supports making resellers eligible to provide Lifeline and Link Up service but wants curbs on pricing to ensure rates do not exceed those of the ETCs. TAM also supports this position and further seeks to make resellers eligible and responsible for assisting in outreach as well.

BA-ME cites paragraph 957 of FCC Docket No. CC 96-48 issued August 8, 1996, which states that Lifeline is available for resale. BA-ME does not oppose expansion of Lifeline to resellers but supports price curbs on Lifeline to ensure that rates do not exceed those charged by ETCs.

We agree that Lifeline and Link Up must be made available for resale, but we also support pricing curbs to ensure that low-income ratepayers receive the benefit they are due. The reseller's retail Lifeline and Link Up rates will be capped at the same level as the provider whose service is being resold. We have modified section 8 of the Rule to reflect these outcomes.

E. Section 5: Verification

Section 5 describes the process that ETCs must use to verify eligibility for Lifeline customers. This verification process costs approximately \$25,000 per year for all carriers combined. It appears to be a cost-effective method to remove customers who no longer fit the eligibility profile.

We sought comment on the following question:

7. Should verification costs be capped at a certain percentage of total program benefits or should we not establish a cap and instead monitor the reports submitted by ETCs pursuant to section 7 of the proposed Rule?

MCAA, TAM and BA-ME all proposed that the Commission not adopt a cap and instead monitor costs through reports submitted pursuant to section 7 of this Rule. We will not adopt a cap or modify the proposed Rule at this time, but will monitor costs to ensure that these remain reasonable and will act in specific circumstances if necessary.

F. Section 6: Outreach Efforts

Section 6 of the proposed Rule repeated the requirement in state law that telecommunications carriers participate in outreach efforts designed to increase network penetration for low-income customers.

We sought comments on the following questions:

8. Should we establish specific outreach requirements or guidelines for eligible telecommunications carriers? If so, what data should be used to determine these requirements and how should we express target requirements (for example, percentage of eligible customers enrolled in the program, number of households enrolled, etc.).

The MCAA desires that the Commission create incentives for TAM companies to partner with Community Action Agencies (CAAs) to perform joint outreach efforts and improve discourse and feedback from the TAM companies to the CAAs regarding the efficacy of those efforts. The CAAs would like to know if their

efforts are effective but do not have the information to make that judgment. MCAA suggests that the PUC take several steps to enhance outreach effectiveness, including arranging a conference to improve current processes and procedures used both in application and enrollment components, organizing an annual training session, and developing a standardized application template.

TAM believes that specific requirements are not necessary. All TAM companies are engaged in outreach programs and cite their data responses in Docket No. 97-825 as well as Maine's current high penetration rate as proof that specific requirements are not needed. TAM also points to the social service agencies as the organizations that have the best data to perform and target outreach efforts.

BA-ME states that it will continue its outreach efforts and cites Maine's high penetration rate as an example of current program effectiveness. BA-ME identifies the difficulties that LECs face in identifying eligible but unenrolled customers and seeks to both collaborate with social service agencies and hold them more responsible for ensuring enrollment. BA-ME cites the lack of specific data needed to target outreach efforts more effectively. Finally, BA-ME suggests that the Commission monitor the program rather than adopt benchmarks.

It is clear that ETCs bear responsibility for Lifeline and Link Up outreach efforts, but the evidence of their overall success to date warrants continued monitoring rather than any major changes or the establishment of benchmarks. One distinction that we will clarify is that between responsibility for outreach and execution of outreach.

Providers of social services are better positioned than ETCs to perform outreach efforts to the target population in most instances, but it is the responsibility of each ETC to ensure that outreach is actually undertaken. Social service agencies are not responsible for achieving the results required in this Rule; they are simply the most effective means of achieving those results. If an ETC wishes to utilize a social service agency for outreach services, the most effective methods to do so are either to sign a performance based contract for outreach efforts with that agency or to engage that agency in a collaborative effort to reach those customers.

We will impose only two specific requirements for Lifeline and Link Up outreach on the part of ETCs at this time. Each customer must be informed of the program at the time that the customer requests service, and each customer must receive notification of the program and its guidelines at least once per

year by mail. These requirements have been added to the Rule. The annual notification should be attached to the ETC's report to the Commission described in section 7(B) of the Rule. We also strongly urge telephone companies to pursue the MCAA's suggestions regarding a standardized application format and an annual meeting with social service agencies to ensure that the efforts of both the companies and the agencies are effective and collaborative.

9. Should all telecommunications companies be required to contribute to or perform outreach or only those providing Lifeline and Link Up services? Should we require the same subset of companies that contribute to Federal universal service efforts to contribute to our outreach efforts?

BA-ME and TAM state that, since all carriers in Maine benefit from increased subscribership, all carriers should be required to perform and contribute to outreach efforts. BA-ME cites the need for an equitable and nondiscriminatory system to ensure the optimum performance of the market.

MCAA did not comment on this issue.

We agree that resellers of Lifeline and Link Up service should participate in outreach efforts to ensure that Maine's low-income customers receive the benefits accorded to them. As set forth in the new section 8 of the Rule, we will hold these resellers to the same outreach standards as incumbent LECs. Further, we will consider expanding outreach responsibility in any state Telecommunications Access Fund (described in Docket No. 98-807). We will address financial contributions to a state Telecommunications Access Fund in a docket considering the creation of such a fund.

G. Section 7: Reporting Requirements

Section 7 of the proposed Rule outlined the reporting requirements for ETCs that serve Lifeline and Link Up customers. This information helps the Commission to assess the relative success of the program and assists in targeting any necessary improvements or modifications.

We sought comment on the following questions:

10. Are the proposed reporting requirements and frequencies appropriate?

None of the commenters had any particular problems with the proposed reporting requirements and frequencies. We concur

that a joint report filed by TAM is the most efficient manner to convey this information and will allow that to continue except as otherwise required by the Commission. The Commission may require individual reporting if it determines that closer inspection or monitoring is warranted. MCAA expressed an interest in tracking individual sign up processes to determine where any lags or problems in the system exist, but we urge the MCAA to pursue this issue with the LECs outside of the reporting requirements.

11. What additional information, if any, should we require?

MCAA requests that a list of all 3-digit central office codes (by county) be provided with the name of each company serving that prefix in order to facilitate prompt transmissions of applications. MCAA also asks that we require all LECs to file a single contact name and telephone number for Lifeline issues and require LECs to update that information when necessary.

TAM and BA-ME suggest no additional information.

We agree with MCAA and require that all LECs provide the appropriate social service agencies and the Commission with an index of central office codes within their service territory and also designate a single contact person for Lifeline and Link Up issues. A copy of this information should also be filed with the Consumer Assistance Division. We have modified the proposed Rule and included this requirement in section 7(B).

Accordingly, we

O R D E R

1. That the attached Chapter 294, Lifeline and Link Up Service Programs, is hereby adopted;
2. That the Administrative Director shall send copies of this Order and attached Rule to:
 - a. All telephone utilities in the State;
 - b. All persons who have filed with the Commission within the past year a written request for Notice of Rulemaking;
 - c. All persons listed on the service list or who filed comments in Docket No. 97-825 and Docket No. 98-724;

d. The Secretary of State for publication in accordance with 5 M.R.S.A. § 8053(5); and

e. The Executive Director of the Legislative Council, State House Station 115, Augusta, Maine 04333 (20 copies).

Dated at Augusta, Maine, this 22nd day of February, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond